IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

WP(C).No. 28114 of 2007(V)

PETITIONER:

K.VASANTHAKUMARI, 'VRINDAVANAM'
EZHUKONE P.O., KOLLAM DIST.

BY ADV. SRI.ELVIN PETER P.J.

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY ITS SECRETARY, MINISTRY OF RAILWAYS, NEW DELHI.

2. STATE OF KERALA, REPRESENTED BY ITS SECRETARY, REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

3. THE CHIEF ENGINEER (CONSTRUCTION), SOUTHERN RAILWAY, THIRUVANANTHAPURAM.

4. THE SPECIAL TAHSILDAR (L.A), RAILWAYS, KOLLAM.

5. THE DISTRICT COLLECTOR, KOLLAM.

BY ADV. SRI.N.B.SUNIL NATH,SC, RAILWAYS
BY GOVT. PLEADER SRI.BASANT BALAJI.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

W.P.(C) No.28114 of 2007

Dated this the 15th October, 2007.

J U D G M E N T

An extent of 21.10 Ares of land comprised in Survey No.288/8 in Ezhukone Village and owned by the petitioner was acquired for coversion of existing Kollam-Punalur meter-gauge Railway line to Broad gauge. The grievance of the petitioner is that in the property acquired, there were trees, but there is failure on the part of the Land Acquisition Officer to give the details and compensation for those trees. When the officials of the railways started uprooting the trees, she has approached this Court with this writ petition.

2. On 20.9.2007, this Court issued an interim direction not to remove the timbers which are lying in the petitioner's property. For and on behalf of 3rd respondent, a counter is filed, in which it is admitted that the possession was handed over to the Railways with an endorsement that there was 'NIL' improvements in that property. It is admitted that there were live trees in the land, and when the railway officials entered the said land and started uprooting the trees,

petitioner objected to the cutting and removing of trees. Hence, they pray that a direction may be given to remove the trees so that the railway can proceed with the work.

3. Removing the timber which had already fell from the property and then valuing it, still create more problems. So, I am of the view that a detailed mahazar of the trees which are already fell and those now standing in the property acquired is to be prepared by the Land Acquisition Officer for fixing the value of the same, and there after only the same can be removed. After preparing a mahazar with due notice to petitioner and respondents, the timber fell can be removed and stored at a safe place, by the State or by the 3rd respondent, until the value of the same is given to the petitioner. The mahazar shall be prepared with due notice to the petitioner, and preferably, in the presence of the petitioner or her representative. The mahazar shall be prepared as expeditiously as possible, at any rate, within two weeks from the date of receipt of a copy of this judgment. Petitioner shall also co-operate with the Land Acquisition Officer. She can produce the copy of the same before the Land Acquisition Officer

and on receipt of the same, the Land Acquisition Officer shall prepare the mahazar. The Railways can start the work after preparing the mahazar and removing the trees.

The writ petition is disposed of accordingly.

K.PADMANABHAN NAIR,
JUDGE

nj.